

**RECEIVED**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

JAN 31 2011

CLERK, U.S. DISTRICT COURT  
MINNEAPOLIS, MINNESOTA

UNITED STATES OF AMERICA,	)	<b>INFORMATION</b> <i>CR 11-42 ADM</i>
	)	
Plaintiff,	)	
	)	
v.	)	
	)	(18 U.S.C. § 371)
	)	(18 U.S.C. § 981(a)(1)(C))
	)	(28 U.S.C. § 3461(c))
BARETTA DEAN BORK AND	)	
XAVIER WILLIS BORK,	)	
	)	
Defendants.	)	

## THE UNITED STATES ATTORNEY CHARGES THAT:

1. At all times relevant to this Information, defendants Baretta Dean Bork ("B. Bork") and Xavier Willis Bork ("X. Bork") were individual residents of the State of Minnesota who worked as loan officers through several mortgage brokerage companies, including Heartland USA, Liberty One Mortgage, American Alliance Mortgage, American Funding Solutions, WDB Holdings, Mortgage & Investment Consultants, and Xecutive Real Estate, through which defendants carried out the mortgage fraud scheme described below.

2. At all times relevant to this Information, defendant X. Bork owned, in addition to Xecutive Real Estate, Xecutive Holdings and Xecutive Properties (collectively, the "Xecutive Companies"), through which the defendants carried out the income tax refund fraud scheme described below.

**SCANNED**

JAN 31 2011

U.S. DISTRICT COURT MPLS

**JAN 31 2011**  
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 RICHARD D. SLETTER, CLERK  
 JUDGMENT ENTERED  
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COUNT 1

(Conspiracy to Commit Mortgage Fraud Through  
the Use of the Wires and to Commit Income Tax Refund Fraud)

3. From in or about December of 2003 through in or about March of 2008, in the State and District of Minnesota, the defendants,

**BARETTA DEAN BORK, AND  
XAVIER WILLIS BORK,**

did unlawfully, knowingly and intentionally conspire, combine, confederate and agree with each other and with persons known to the United States Attorney to commit two offenses against the United States, that is,

a. knowingly to devise a scheme and artifice to defraud mortgage lenders throughout the United States, and to obtain money and property from mortgage lenders by means of material false and fraudulent representations and promises and, for the purpose of executing such scheme, to cause interstate wires to be transmitted from places outside of Minnesota to places inside of Minnesota, in violation of Title 18, United States Code, Section 1343; and

b. knowingly to make and present to the Internal Revenue Service, a department and agency of the United States, fictitious and fraudulent claims for refund of income taxes, in violation of Title 18, United States Code, Section 287.

Purpose of the Conspiracy

4. It was the purpose of the conspiracy to recruit third parties and to fill out mortgage loan applications and tax returns in their names with false information in order to steal money from mortgage lenders and from the Internal Revenue Service.

Manner and Means

It was part of the conspiracy that from in our about December of 2003 through March of 2008:

Recruiting Third Parties to Steal from Mortgage Lenders.

5. Defendants B. Bork and X. Bork recruited 11 unqualified straw buyers to purchase 33 residential properties located in Minnesota with \$10,208,390 in proceeds of mortgage loans fraudulently brokered by defendants B. Bork and X. Bork.

6. To trick mortgage lenders into making the loans, defendants B. Bork and X. Bork caused numerous loan applications to be submitted to mortgage lenders located throughout the United States in the straw buyers' names which greatly exaggerated the straw buyers' income; misrepresented the straw buyers' employment status; falsely represented the straw buyers' intent to occupy the homes being purchased; and omitted other loan obligations the straw buyers had already incurred in purchasing other properties pursuant to the scheme.

7. In all cases, defendants B. Bork and X. Bork caused the straw buyers to purchase the properties at inflated prices to obtain larger mortgage loans from lenders which created a pool of money to be paid out to the straw buyers and to B. Bork and X. Bork in the form of both mortgage brokerage fees and in the form of purported real estate commissions.

8. Between December of 2003 and November of 2006, defendants B. Bork and X. Bork caused 11 straw buyers to purchase 33 properties with \$10,208,390 in borrowed funds, causing losses to 24 mortgage lenders in an aggregate amount exceeding \$4,000,000.

Recruiting Third Parties to Steal from the IRS.

9. Defendants B. Bork and X. Bork recruited 26 persons to file false and fraudulent United States Individual Income Tax Returns falsely claiming refunds in the aggregate amount of \$154,801 through materially false misrepresentations.

10. Defendants B. Bork and X. Bork provided the recruited persons with fictitious W-2 forms which falsely reported that the recruited persons earned a salary or wage at one of the Xecutive Companies, or at Liberty One Mortgage, and which falsely reported that the defendants had withheld income taxes from their paychecks, even though neither of the defendants nor any of the companies they owned and controlled ever withheld or paid in any employment taxes of any of the recruited persons.

11. To facilitate the refund fraud scheme, the defendants recruited at least 2 "runners," including unindicted coconspirator BW, to recruit persons to file false tax returns and to obtain and provide to B. Bork and X. Bork the information required to complete the false returns in the recruited persons' names.

12. In many cases, B. Bork would personally drive a person recruited to file a false tax return to a tax preparation business, and would wait in the parking lot of the business while the process of preparing and filing the false return was completed.

#### Overt Acts

In furtherance of the conspiracy and to achieve its purposes, defendants B. Bork and X. Bork committed, directly and through accomplices, among other acts, the following overt acts:

13. On or about April 1, 2004, defendants B. Bork and X. Bork caused a wire transfer in the amount of \$335,356 to be made from a place outside of Minnesota to Premiere Bank located within the state of Minnesota to fund the fraudulent purchase by straw buyer and unindicted coconspirator BW of a condominium unit located in Minneapolis, Minnesota, generating the fraudulent payment of a purported "real estate commission" in the amount of \$38,700 to and for the benefit of B. Bork and X. Bork and occasioning losses to lender Resource Bank and its assignees of approximately \$163,000.

14. On or about January 17, 2006, defendants B. Bork and X. Bork used the internet to file in recruited person CDB's name a false United States Individual Income Tax Return (Form 1040) which made a fraudulent claim for refund of \$6,665.

15. On or about January 20, 2006, defendants B. Bork and X. Bork caused a wire transfer in the amount of \$121,604 to be made from a place outside of Minnesota to Premiere Bank located within the state of Minnesota to fund the fraudulent purchase by straw buyer KB of a single-family home located in Mankato, Minnesota, occasioning losses to lender Stonecreek Funding and its assignees of approximately \$70,000.

16. On or about August 11, 2006, defendants B. Bork and X. Bork caused a wire transfer in the amount of \$484,525 to be made from a place outside of Minnesota to Venture Bank located within the state of Minnesota to fund the fraudulent purchase by straw buyer AP of a single-family home located in Mound, Minnesota, generating the fraudulent payment of a purported "real estate commission" in the amount of \$69,000 to and for the benefit of B. Bork and X. Bork and occasioning losses to BNC Mortgage / Lehman Brothers and its assignees of approximately \$310,000.

17. In or about February of 2008, defendants B. Bork and X. Bork recruited unindicted coconspirator BW to identify individuals willing to have false tax returns filed in their names.

18. On or about March 8, 2008, defendants B. Bork and X. Bork used the internet to file in the name of DJ, a person recruited by unindicted coconspirator BW, a false United States Individual Income Tax Return (Form 1040) which made a fraudulent claim for refund of \$4,484.

All in violation Title 18, United States Code, Section 371.

**FORFEITURE ALLEGATION**

Count 1 of this Information is hereby realleged and incorporated as if fully set forth herein by reference, for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

As the result of the offense alleged in Count 1 of this Information, so far as it touches upon mortgage fraud, in violation of Title 18, United States Code, Section 1343, the defendant shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the violation of Title 18, United States Code, Section 371, including a personal money judgment forfeiture in the amount of at least \$4,207,445.

If any of the above-described forfeitable property is unavailable for forfeiture, the United States intends to seek the

forfeiture of substitute property as provided for in Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

All in violation of Title 18, United States Code, Sections 371 and 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

Dated: *January 31, 2011*

B. TODD JONES  
United States Attorney

*David J. MacLaughlin*

BY: David J. MacLaughlin  
Assistant U.S. Attorney  
Attorney ID No. 211849